

Support Document for the Revised National Priorities List Final Rule - February 2005

**State, Tribal, and Site Identification Center
Office of Solid Waste and Emergency Response
U.S. Environmental Protection Agency
Washington, DC 20460**

ABSTRACT

Pursuant to Section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), the U.S. Environmental Protection Agency (EPA) periodically adds hazardous waste sites to the National Priorities List (NPL). Prior to actually listing a site, EPA proposes the site in the *Federal Register* and solicits public comments.

This document provides responses to public comments to a proposal published on August 13, 2004 (69 FR 50115) to list certain areas on and around the islands of Vieques and Culebra, Puerto Rico, which the Governor has identified in her request as the Atlantic Fleet Weapons Training Area (AFWTA). The Vieques portion of this proposed site is added to the NPL based on the Commonwealth of Puerto Rico's selection of the AFWTA as that entity's highest priority site. The Vieques portion is being added to the NPL in a final rule published in the *Federal Register* in February 2005.

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EXECUTIVE SUMMARY

Section 105(a)(8)(B) of CERCLA, as amended by SARA, requires that the EPA prepare a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. An original NPL was promulgated on September 8, 1983 (48 FR 40658). CERCLA also requires the EPA to update the list at least annually.

This document provides responses to public comments to a proposal published on August 13, 2004 (69 FR 50115) to list certain areas on and around the islands of Vieques and Culebra, Puerto Rico, which the Governor has identified in her request as the Atlantic Fleet Weapons Training Area (AFWTA). The Vieques portion of this proposed site is added to the NPL based on the Commonwealth of Puerto Rico's selection of the AFWTA as that entity's highest priority site. The Vieques portion is being added to the NPL in a final rule published in the *Federal Register* in February 2005.

The site addressed in this document is identified in the following table.

SITES ADDRESSED IN THIS DOCUMENT

Region	State	Site Name	City	Proposal Date	HRS Score ^{1□}	
					Proposed	Final
2	PR	Atlantic Fleet Weapons Training Area - Vieques	Vieques	August 13, 2004		

¹The Atlantic Fleet Weapons Training Area - Vieques is being added to the NPL based on its selection by the Commonwealth of Puerto Rico as that entity's highest priority site. As such, it was not evaluated with the Hazard Ranking System.

INTRODUCTION

This document explains the rationale for adding one site to the NPL of uncontrolled hazardous waste sites and also provides the responses to public comments received on this site. The EPA proposed this site on August 13, 2004 (69 FR 50115). This site is added to the NPL based on its selection by the Commonwealth of Puerto Rico as that entity's highest priority site. This site is being added to the NPL in a final rule published in the *Federal Register* in February 2005.

Background of the NPL

In 1980, Congress enacted CERCLA, 42 U.S.C. Sections 9601 *et seq.* in response to the dangers of uncontrolled hazardous waste sites. CERCLA was amended on October 17, 1986, by SARA, Public Law No. 99-499, stat., 1613 *et seq.* To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA Section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP, further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth guidelines and procedures needed to respond under CERCLA to releases and threatened releases of hazardous substances, pollutants, or contaminants. On March 8, 1990 (55 FR 8666), EPA further revised the NCP in response to SARA.

Section 105(a)(8)(A) of CERCLA, as amended by SARA, requires that the NCP include

criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, take into account the potential urgency of such action, for the purpose of taking removal action.

Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA Section 101(23)). Remedial action tends to be long-term in nature and involves response actions that are consistent with a permanent remedy for a release (CERCLA Section 101(24)). Criteria for placing sites on the NPL, which makes them eligible for remedial actions financed by the Trust Fund established under CERCLA, were included in the HRS, which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982). On December 14, 1990 (56 FR 51532), EPA promulgated revisions to the HRS in response to SARA, and established the effective date for the HRS revisions as March 15, 1991.

Section 105(a)(8)(B) of CERCLA, as amended, requires that the statutory criteria provided by the HRS be used to prepare a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is Appendix B of the NCP, is the NPL.

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). At that time, an HRS score of 28.5 was established as the cutoff for listing because it yielded an initial NPL of at least 400 sites,

as suggested by CERCLA. The NPL has been expanded several times since then, most recently on September 23, 2004 (69 FR 56949). The Agency also has published a number of proposed rulemakings to add sites to the NPL. The most recent proposal was on September 23, 2004 (69 FR 56970).

Development of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96-848, 96th Cong., 2d Sess. 60 [1980]):

The priority list serves primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational and management tool. The identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of the human health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. The NPL also serves to notify the public of sites EPA believes warrant further investigation. Finally, listing a site may, to the extent potentially responsible parties are identifiable at the time of listing, serve as notice to such parties that the Agency may initiate CERCLA-financed remedial action.

CERCLA Section 105(a)(8)(B) directs EPA to list priority sites among the known releases or threatened release of hazardous substances, pollutants, or contaminants, and Section 105(a)(8)(A) directs EPA to consider certain enumerated and other appropriate factors in doing so. Thus, as a matter of policy, EPA has the discretion not to use CERCLA to respond to certain types of releases. Where other authorities exist, placing sites on the NPL for possible remedial action under CERCLA may not be appropriate. Therefore, EPA has chosen not to place certain types of sites on the NPL even though CERCLA does not exclude such action. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may consider placing them on the NPL.

Hazard Ranking System

The HRS is the principle mechanism EPA uses to place uncontrolled waste sites on the NPL. It is a numerically based screening system that uses information from initial, limited investigations -- the preliminary assessment and site inspection -- to assess the relative potential of sites to pose a threat to human health or the environment. HRS scores, however, do not determine the sequence in which EPA funds remedial response actions, because the information collected to develop HRS scores is not sufficient in itself to determine either the extent of contamination or the appropriate response for a particular site. Moreover, the sites with the highest scores do not necessarily come to the Agency's attention first, so that addressing sites strictly on the basis of ranking would in some cases require stopping work at sites where it was already underway. Thus, EPA relies on further, more detailed studies in the remedial investigation/feasibility study that typically follows listing.

The HRS uses a structured value analysis approach to scoring sites. This approach assigns numerical values to factors, that relate to or indicate risk, based on conditions at the site. The factors are grouped into three categories. Each category has a maximum value. The categories include:

- likelihood that a site has released or has the potential to release hazardous substances into the environment;
- characteristics of the waste (toxicity and waste quantity); and
- people or sensitive environments (targets) affected by the release.

Under the HRS, four pathways can be scored for one or more threats:

- Ground Water Migration (S_{gw})
 - drinking water
- Surface Water Migration (S_{sw})
 - These threats are evaluated for two separate migration components (overland/flood and ground water to surface water).
 - drinking water
 - human food chain
 - sensitive environments
- Soil Exposure (S_s)
 - resident population
 - nearby population
 - sensitive environments
- Air Migration (S_a)
 - population
 - sensitive environments

After scores are calculated for one or more pathways according to prescribed guidelines, they are combined using the following root-mean-square equation to determine the overall site score (S), which ranges from 0 to 100:

$$S = \sqrt{\frac{S_{gw}^2 + S_{sw}^2 + S_s^2 + S_a^2}{4}}$$

If all pathway scores are low, the HRS score is low. However, the HRS score can be relatively high even if only one pathway score is high. This is an important requirement for HRS scoring because some extremely dangerous sites pose threats through only one pathway. For example, buried leaking drums of hazardous substances can contaminate drinking water wells, but -- if the drums are buried deep enough and the substances not very volatile -- not surface water or air.

Other Mechanisms for Listing

Aside from the HRS, there are two other mechanisms by which sites can be placed on the NPL. The first of these mechanisms, authorized by the NCP at 40 CFR 300.425(c)(2), allows each State and Territory to designate one site as its highest priority regardless of score.

The last mechanism, authorized by the NCP at 40 CFR 300.425(c)(3), allows listing a site if it meets all three of these requirements:

- Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release;
- EPA determines the site poses a significant threat to public health; and
- EPA anticipates it will be more cost-effective to use its remedial authority than to use its emergency removal authority to respond to the site.

Organization of this Document

The following section addresses site-specific public comments. The site discussion begins with a list of commenters, followed by a site description, a summary of comments, and Agency responses. A concluding statement indicates the effect of the comments on the HRS score for the site.

Glossary

The following acronyms and abbreviations are used throughout the text:

Agency	U.S. Environmental Protection Agency
AFWTA	Certain areas on and around the islands of Vieques and Culebra, Commonwealth of Puerto Rico. The Commonwealth has identified these areas collectively in its listing request as the Atlantic Fleet Weapons Training Area (AFWTA).
ATSDR	Agency for Toxic Substances and Disease Registry
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601 <i>et seq.</i> , also known as Superfund
EPA	U.S. Environmental Protection Agency
FUDS	Formerly Used Defense Sites, program executed by Department of Army in accordance with CERCLA and NCP pursuant to 10 U.S.C. 2701 <i>et seq.</i>
HRS	Hazard Ranking System, Appendix A of the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300
HRS Score	Overall site score calculated using the Hazard Ranking System; ranges from 0 to 100
NCP	National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300
NPL	National Priorities List, Appendix B of the NCP
NPL-###	Public comment index numbers as recorded in the Superfund Docket in EPA Headquarters and in Regional offices
PA/SI	Preliminary Assessment/Site Inspection
PRP	Potentially Responsible Party
RCRA	Resource Conservation and Recovery Act of 1976 (U.S.C. 9601-6991, as amended)
RD/RA	Remedial Design/Remedial Action
RI/FS	Remedial Investigation/Feasibility Study

ROD	Record of Decision, explaining the CERCLA-funded cleanup alternative(s) to be used at an NPL site
SARA	Superfund Amendments and Reauthorization Act of 1986, Public Law No. 99-499, stat., 1613 <i>et seq.</i>

Region 2

1.1 Atlantic Fleet Weapons Training Area - Vieques, Vieques, Puerto Rico

1.1.1 List of Commenters

SFUND-2004-0011-0061	Comment dated 8/27/04 from a concerned citizen describing self as an environmental professional SFUND-2004-0011-0062 Comment dated 9/20/04 from a concerned citizen
SFUND-2004-0011-0063	Comment dated 9/21/04 from David Wilmont
SFUND-2004-0011-0064	Comment dated 9/30/04 from Rachel Greene
SFUND-2004-0011-0065	Comment dated 10/4/04 from Debra Chang
SFUND-2004-0011-0066	Comment dated 9/30/04 from Hedy Epstein
SFUND-2004-0011-0067	Comment dated 10/6/04 from the Clinic at University of Puerto Rico School of Law, Environmental Law
SFUND-2004-0011-0068	Comment dated 9/30/04 from William Cleek
SFUND-2004-0011-0069	Comment dated 9/30/04 from David Kimball
SFUND-2004-0011-0070	Comment dated 9/30/04 from Caryl Guisinger
SFUND-2004-0011-0071	Comment dated 9/30/04 from Fred Reese
SFUND-2004-0011-0072	Comment dated 10/1/04 from CarrieAnn Therese, Director, Social Justice Ministries, Franciscan Renewal Center, Scottsdale, AZ
SFUND-2004-0011-0073	Comment dated 9/30/04 from Gwen Hennessey
SFUND-2004-0011-0074	Comment dated 9/30/04 from Olive Wilson
SFUND-2004-0011-0075	Comment dated 9/30/04 from Dhyan Cassie
SFUND-2004-0011-0076	Comment dated 10/1/04 from Harvey Benson
SFUND-2004-0011-0077	Comment dated 10/1/04 from William and Jane Daniels
SFUND-2004-0011-0078	Comment dated 10/2/04 from David and Louise Ransom
SFUND-2004-0011-0079	Comment dated 9/30/04 from Mary E. Kelley
SFUND-2004-0011-0080	Comment dated 10/1/04 from Sam Card

SFUND-2004-0011-0081	Comment dated 10/2/04 from Fitz J. Fleenor
SFUND-2004-0011-0082	Comment dated 10/2/04 from Linda Backiel, Esq.
SFUND-2004-0011-0083	Comment dated 10/4/04 from John and Karen Wilson
SFUND-2004-0011-0084	Comment dated 10/4/04 from Carol Solomon
SFUND-2004-0011-0085	Comment dated 10/4/04 from Mary Ellen Myers
SFUND-2004-0011-0086	Comment dated 10/4/04 from Rev. Dr. Velma M. Shearer
SFUND-2004-0011-0087	Comment dated 10/1/04 from Mary Rose Curtis
SFUND-2004-0011-0088	Comment dated 10/4/04 from Betty Brassell
SFUND-2004-0011-0089	Comment dated 10/4/04 from Albert Huang, Policy Advocate, Environmental Health Coalition, San Diego, CA
SFUND-2004-0011-0090	Comment dated 10/6/04 from Greg Spence Wolf
SFUND-2004-0011-0091	Comment dated 10/1/04 from Gladys M. Andres
SFUND-2004-0011-0092	Comment dated 10/5/04 from Noemi Santana-Gonzalez
SFUND-2004-0011-0093	Comment dated 10/7/04 from Rochelle Killett
SFUND-2004-0011-0094	Comment dated 10/6/04 from M. O'Connor
SFUND-2004-0011-0095	Comment dated 10/6/04 from Lura Bowin
SFUND-2004-0011-0096	Comment dated 10/6/04 from Abbie Meyer
SFUND-2004-0011-0097	Comment dated 10/6/04 from Mary E. Kelley
SFUND-2004-0011-0098	Comment dated 10/11/04 from Juan R. Fernandez, Ph.D., Estado Libra Asociado De Puerto Rico
SFUND-2004-0011-0099	Comment dated 10/11/04 from Rosarito Morales, Flores Soto, and Lizette Andujar
SFUND-2004-0011-0100	Comment dated 10/12/04 from Kathy Hall, President, La Liga Ecologica del Noroeste
SFUND-2004-0011-0101	Comment dated 10/12/04 from a concerned citizen
SFUND-2004-0011-0102	Comment dated 10/12/04 from Sara Maxwell

SFUND-2004-0011-0103	Comment dated 10/12/04 from Eileen (no surname provided) a concerned citizen
SFUND-2004-0011-0104	Comment from Colleen McNamara, no date
SFUND-2004-0011-0105	Comment dated 10/12/04 from a concerned citizen
SFUND-2004-0011-0106	Comment dated 10/12/04 from Anibal Acevedo-Vila, Resident Commissioner, Member of Congress
SFUND-2004-0011-0107	Comment dated 10/8/04 from James Winkler, General Secretary, General Board of Church and Society of The United Methodist Church
SFUND-2004-0011-0108	Comment dated 10/8/04 from John Lindsay-Poland, Coordinator, Task Force on Latin America & the Caribbean, Sonia Ivette Dueno, Racial and Economic Justice, and Wanda I. Resto Torres, Coordinator, Fellowship of Reconciliation (FOR)
SFUND-2004-0011-0109	Comment from Suzanne P. Lombom, no date
SFUND-2004-0011-0110	Comment from the United States Department of the Army, no date
SFUND-2004-0011-0111	Comment dated 10/12/04 from the Commonwealth of Puerto Rico, Office of the Governor, Environmental Quality Board
SFUND-2004-0011-0112	Comment dated 10/12/04 from Aimee R. Houghton, Associate Director, Center for Public Environmental Oversight
SFUND-2004-0011-0113	Comment dated 10/12/04 from Rex Roettger
SFUND-2004-0011-0114	Comment dated 10/12/04 from Nancy Muehllehner
SFUND-2004-0011-0115	Comment dated 10/11/04 from Alejandra Berberena Nazario, Universidad Metropolitana, Departamento De Biologia
SFUND-2004-0011-0116	Comment dated 10/11/04 from Mary Ann Lucking, Director, CORALations
SFUND-2004-0011-0117	Comment dated 10/12/04 from Frank Muller-Karger, Institute for Marine Remote Sensing, College of Marine Science, University of South Florida
SFUND-2004-0011-0118	Comment dated 10/9/04 from Lucy Jinishian
SFUND-2004-0011-0119	Comment dated 10/12/04 from Robert N. Ginsburg, Professor of Marine Geology, University of Miami
SFUND-2004-0011-0120	Comment dated 10/1/04 from Sally Wagner

SFUND-2004-0011-0121	Comment dated 10/2/04 from David and Louise Ransom
SFUND-2004-0011-0122	Comment dated 9/30/04 from Olive Wilson
SFUND-2004-0011-0123	Comment dated 9/30/04 from David W. Kimball
SFUND-2004-0011-0124	Comment dated 10/4/04 from Mary Ellen Meyers
SFUND-2004-0011-0125	Comment dated 10/12/04 from Sam D. Hamilton, Regional Director, United States Department of the Interior, Fish and Wildlife Service
SFUND-2004-0011-0126	Comment dated 10/12/04 from Andrew G. Gude, National Wildlife Refuge System Marine Programs
SFUND-2004-0011-0127	Comment dated 10/11/04 from Anna Blackledge
SFUND-2004-0011-0128	Comment dated 10/12/04 from Gerald H. Thomsen, Ph.D., Department of Biochemistry & Cell Biology, Stony Brook University
SFUND-2004-0011-0129	Comment dated 10/6/04 from Amy Coursen
SFUND-2004-0011-0130	Comment dated 10/6/04 from Cathy Blackwood
SFUND-2004-0011-0131	Comment dated 9/20/04 from Junta Directiva, Comité Pro Rescate Y Desarrollo De Vieques
SFUND-2004-0011-0132	Comment dated 9/30/04 from Judi Poulson
SFUND-2004-0011-0133	Comment dated 9/30/04 from Elizabeth Cushman
SFUND-2004-0011-0134	Comment dated 10/12/04 from Ed Hopkins, Director, Environmental Quality Program, Sierra Club
SFUND-2004-0011-0135	Comment dated 10/12/04 from Stacie Notine
SFUND-2004-0011-0136	Comment dated 10/12/04 from Dr. Juan A. Giusti and Dr. Jorge Colon, University of Puerto Rico Piedras, and Eduardo Morales Coll, Esq., President, the Groupe de Trabajo de Vieques and President, Ateneo Puertorriqueno, on behalf of Groupe de Trabajo de Vieques
SFUND-2004-0011-0137	Comment dated 10/11/04 from Frank S. Gonzalez Garcia, President, Puerto Rican Ornithological Society, Inc.
SFUND-2004-0011-0138	Comment dated 10/12/04 from Manuel Mirabal, President & CEO, National Puerto Rican Coalition

SFUND-2004-0011-0139	Comment dated 10/12/04 from Esteban Mjica Cotto, President, Environmental Quality Board, Commonwealth of Puerto Rico, Office of the Governor
SFUND-2004-0011-0140	Comment from Victor Miranda, no date
SFUND-2004-0011-0141	Comment dated 10/9/04 from T.A. Leon Cuz
SFUND-2004-0011-0142	Comment dated 9/8/04 from Carlos E. Vega-Desuel
SFUND-2004-0011-0143	Comment dated 10/10/04 from Judith Conde Pacheco, Zaida Torres Rodriguez, and Sandra I. Melendez Rosario for Alianz de Mujeres Viequenses, Inc.
SFUND-2004-0011-0144	Comment dated 10/6/04 submitted for Digna Feliciano, et. al
SFUND-2004-0011-0145	Comment dated 10/19/04 Luz E. Rivera, et. al
SFUND-2004-0011-0146	Comment dated 10/21/04 from by Esteban Mujica Cotto, President, Environmental Quality Board, Commonwealth of Puerto Rico, Office of the Governor
SFUND-2004-0011-0147	Comment dated 10/12/04 from Jorge I. Colon, Ph.D., Todeo Puerto Rico con Vieques Coordinating Committee
SFUND-2004-0011-0148	Comments dated 10/29/04 from Alexander Schmandt (late comment), Willkie Farr & Gallagher, LLP

In addition to the commenters listed above, the Agency received a total of 1,373 comments in the form of mass mailings (nine different form letters) and 280 petition signatures (2 separate petitions).

1.1.2 Facility Description

In a letter to the Administrator of EPA dated June 13, 2003, the Governor of Puerto Rico, Sila M. Calderon, stated that certain areas of Vieques and Culebra, affected primarily by United States Department of Defense (DoD) activities, are part of a facility that presents the greatest danger to public health and welfare or the environment of the know Superfund sites in Puerto Rico. She identified these areas as the Atlantic Fleet Weapons Training Area (AFWTA), designated these lands and areas of water as the highest priority facility in the Commonwealth of Puerto Rico, and requested that it be placed on the National Priorities List (NPL) as soon as possible. She commented that this designation was made pursuant to CERCLA 105(a)(8)(B) and Section 300.425(c)(2) of the National Contingency Plan, which affords every state the opportunity to select the highest priority facility in that state for inclusion on the NPL. She maintained that for more than 99 years, the DoD, and the United States Navy (Navy) in particular, had used the eastern and western portions of the island of Vieques, the Culebra Island Archipelago, and their surrounding keys and waters for military training exercises, and support of those operations. She also maintained that the affected areas on Culebra and Vieques, including the waters and keys surrounding both islands, were used by the DoD in a coordinated fashion and for the same purposes and that together they constitute a single facility as defined in Section 101(9) of CERCLA and for the purposes of state designation under Section 105(a)(8)(B).

Esteban Mujica-Cotto, Esq., President of the Environmental Quality Board of the Commonwealth of Puerto Rico (henceforth “Puerto Rico”) clarified what Puerto Rico requested in June, 2003, in subsequent letters to the EPA Region 2 Regional Administrator dated October 21, 2003, and July 28, 2004, with respect to both Vieques and Culebra, and May 26, 2004, with respect to Vieques.

In the July 28, 2004, letter, Puerto Rico noted that, while it agreed that it would pursue negotiations regarding the investigation and cleanup of the Culebra portions of AFWTA, the AFWTA would still be proposed to the NPL as requested by the Governor of Puerto Rico. EPA would solicit comment on postponing the finalization of the Culebra portions, and if an agreement is reached on the Culebra portions, Culebra would remain as proposed on the NPL until all the remedial actions are completed or until the Commonwealth determined the proposed status was not necessary. If no agreement was reached Puerto Rico would request the same NPL status for Culebra portions as the Vieques portions.

On October 28, 2004, the Army and the EQB signed a Preliminary Points of Agreement (PPA) document, which states that the parties are continuing to work towards a Memorandum of Agreement (MOA) to govern the continuing environmental response actions by the Army at Culebra. In the PPA, Puerto Rico agreed that it was “willing to withdraw or modify its request to include the Culebra area proposed for listing on the NPL at some point in the future if satisfactory progress is being made by other means toward investigating and responding to threats to human health and the environment from past military activities on Culebra on terms and conditions to be negotiated in the Memorandum of Agreement. If an agreement cannot be reached, Puerto Rico intends to request that the Culebra portions of the facility achieve the same status as the Vieques portions.”

1.1.3 Summary of AFWTA Proposal

On August 13, 2004, EPA published in the Federal Register (See 69 FR 50118, August 13, 2004) a Notice of Proposed Rulemaking stating that “this Rule proposes two different options to add certain areas on and around the islands of Vieques and Culebra, Commonwealth of Puerto Rico, to the NPL. The Commonwealth has identified these areas collectively in its listing request as the Atlantic Fleet Weapons Training Area (“AFWTA”).” The proposal solicited public comment on three separate questions. These questions are presented in Federal Register Section II.F, *What Should I Consider When Preparing My Comments?* and elaborated upon in Section III, *Contents of This Proposed Rule*:

- I. EPA is soliciting comments on the listing of certain areas on and around Vieques and Culebra, identified by the Governor collectively as the AFWTA. . .
- II. EPA is also soliciting comments on an approach for final listing that would separate the final listing decision for Culebra from Vieques (Commenters are referred to Section III.A of the proposal for a “more detailed description of this approach,” *Contents of this Proposed Rule*).
- III. In addition, EPA is seeking comment on treating the noncontiguous islands of Vieques and Culebra as one facility, considering court decisions such as *Mead Corp. v. Browner*, 100 F.3d 152 (D.C. Cir. 1996).

EPA received 1,453 comments on the proposal in the form of specific technical comments on specific proposed alternative approaches to listing, mass mailings, and petitions. Of these comments, a single commenter opposed any listing of the areas collectively identified by the Commonwealth as the AFWTA

while the remainder supported the listing of some portion or all of these areas as designated by the Governor of the Commonwealth of Puerto Rico (as described above).

In response to these comments, the Agency has decided to go forward with a listing of Vieques and, due to the pending negotiations between the Commonwealth of Puerto Rico and the Army, the Agency has elected to take no action at this time on the final listing decision for Culebra, including on whether Vieques and Culebra can be treated as one facility. The Commonwealth of Puerto Rico and the Army may enter into a Memorandum of Agreement that would govern the environmental response at the Culebra areas outside of the Superfund listing process. As outlined in the rule proposing the areas collectively identified by the Commonwealth as the AFWTA to the NPL, “the terms or progress under such an agreement may determine the point at which it may be appropriate to withdraw the proposal to list the Culebra areas.” The Commonwealth of Puerto Rico may request the formal addition of these portions of the AFWTA to the NPL listing at a later time should this become necessary. This support document provides additional summary details of the comments received on the listing and EPA’s response. Comments specifically addressing the issue of promulgation of the single facility as described in the letters from the Governor will be summarized and responses provided at a later time should this issue need to be addressed. Further, it must be noted that while EPA takes all comments seriously, EPA would like to clarify that the Agency has not investigated whether the information contained in the public comments is accurate or if the information has been recognized and established by scientific and investigatory protocol.

1.1.4 Support for AFWTA-Vieques Listing

In a mass mailing and other individual comments, numerous individuals, including representatives of religious groups, expressed their support for “the inclusion of lands and waters on and around Vieques known as the Atlantic Fleet Weapons Training Area (AFWTA) in the top 100 sites of the Superfund National Priority List, as requested by the Governor of Puerto Rico.” They provided a brief summary of military exercises on the island of Vieques over more than 60 years. They stated that “[t]hose military exercises included, according to Navy records and local testimonies, the use of bombs and munitions containing toxic substances such as TNT, RDX, HMX, Teteryl, HBX, PETN, heavy metals (e.g., lead, cadmium, arsenic, mercury), perchlorate, phosphorus, and other pyrophoric materials, as well as depleted uranium, napalm, Agent Orange, Chaff, trioctyl phosphate (a simulant of nerve agent VX), and residues of organic and inorganic chemical components, among other contaminants.” They stated that these activities had left a large amount of this Puerto Rican municipality highly contaminated and commented that independent scientists had demonstrated “the presence of high concentrations of heavy metals, both in the soil where military exercises took place and in the food chain.” The National Puerto Rican Coalition commented that “fish and shellfish caught in the waters off Vieques have also shown elevated levels of lead, cadmium, arsenic, aluminum, and uranium.”

Many commenters noted health effects of past military activities in the areas collectively identified by the Commonwealth as the AFWTA. These comments included specific references to “high rates of cancer and other diseases.” Five commenters specifically expressed concern over elevated cancer rates. The Puerto Rico School of Law–Environmental Law Clinic asserted that, “[a]s a matter of fact, until 1999, Vieques had a cancer rate 27% higher than the rest of the Puerto Rico island.”

The National Puerto Rican Coalition (NPRC) commented that “there appears to be a very strong correlation between the environmental damage caused by U.S. Navy training exercises and the over indexing health problems of the civilian population.” It stated that “[p]reliminary studies conducted on the residents of Vieques have concluded that the health status is worse than that of the people on the main island of Puerto Rico . . . For example, in 1998, the death rate from heart disease in Vieques was 251.6 per 100,000, compared to 157.5 in Puerto Rico.” NPRC stated “[c]ancer has also been a major health concern for the residents of Vieques.” It had been advised by an epidemiologist that the “Vieques’ incidence of cancer for 1995-99 was 31 percent above the main Island. Such disparate numbers are greater than the 27 percent gap reported in the early 1990s for the 1985-89 period.” It suggested that a lower difference in the 1990-94 period (only 4 percent higher on Vieques) might be attributable to Vieques small population of 9,100.

NPRC commented that a recent Congressional Research Service report “indicates that federal studies of Vieques did not identify present risks to human health from munitions-related contamination.” It asserted, however, that “these reports are highly controversial considering the numerous health problems in a community that does not have any major industries that could result in hazardous contamination.

Mr. Anibal Acevedo-Vila, Resident Commissioner and Member of Congress, also noted that “[r]esidents of Vieques have been found to have higher incidences of cancer and other diseases than the other residents of Puerto Rico, and, in peer reviewed studies, to have above normal bodily concentrations of mercury.” Mr. Acevedo-Vila continued, “[s]tudies have found high concentrations of munitions components and heavy metals in marine life, vegetation, soil and the water. UXO is pervasive . . . and is extremely hazardous to residents, workers and visitors,” and that “[i]n the waters, UXO is dangerous to boaters, fishermen and divers, can damage coral reefs, and can degrade into marine life and the food chain.” Mary Ann Lucking, Director, CORALations², also commented that the “fate of toxins associated with UXO in a complex marine ecosystem is not well understood.”

NPRC also commented on high mercury levels. It stated that “an independent study affirms that 26.8 percent of 41 women monitored in Vieques had sufficient levels of mercury in their body systems to cause neurological damage to a fetus in the event of pregnancy.” It continued that “[o]nly 6.6 percent of 45 women studied in Puerto Rico and 7 percent of 702 women in that age group on the US mainland had mercury at potentially dangerous levels.”

Ms. Abbie Meyer, private citizen, urged EPA to take prompt action to require clean-up of Vieques and added that “[c]oncessions in the Military Munitions Rule disproportionately favor the military’s position of doing little or nothing to clean-up old firing ranges. The abandoned UXO’s as well as debris from exploded ordnance pose a substantial danger to individuals who must live in the shadow of these former firing ranges.

Linda Backiel, private citizen, stated that failing to clean up contaminated areas in Vieques “presents an unacceptable risk of adverse impact on the health and well-being of approximately 9,400 men, women and children,” and commented that “[t]he long-term health effects of the high explosives, napalm, fuels and other substances used in Vieques by the tons is not completely known.”

²CORALations is a 501(c)(3) non-profit coral reef conservation organization.

The Puerto Rican Ornithological Society, Inc. (SOPRI) commented that Culebra, Vieques and their cays “are also essential habitat for several species of gulls and terns. . . Contaminants at these sites may represent a serious threat to all living organisms. . . .”

In response, EPA is adding the Vieques portions of the areas collectively identified by the Commonwealth as the Atlantic Fleet Weapons Training Area to the NPL pursuant to CERCLA 105(a)(8)(B) and Section 300.425(c)(2) of the National Contingency Plan, which affords every state the opportunity to select the highest priority facility in that state for inclusion on the NPL. Listing makes a facility eligible for remedial action funding under CERCLA, and EPA will examine the facility to determine the appropriate response action(s). EPA will determine the need for using Superfund monies for remedial activities on a site-by-site basis, taking into account the NPL ranking, State priorities, further site investigation, other response alternatives, and other factors as appropriate.

1.1.5 Concerns Regarding Listing

Mr. Harvey Benson, private citizen, opposed the listing of any part of the areas collectively identified by the Commonwealth as the AFWTA but offered no substantive comment in support of this position.

One anonymous commenter, while not directly opposing the listing, expressed concern “that by agreeing to add . . . [the areas] . . . to the list, the EPA and the American taxpayers may be committing themselves to a huge monetary commitment,” and that “adding these territories to the National Priorities List . . . could be replacing one of the much needed areas within the continental United States.”

In response, EPA is adding the Vieques portions of the areas collectively identified by the Commonwealth as the Atlantic Fleet Weapons Training Area to the NPL pursuant to CERCLA 105(a)(8)(B) and Section 300.425(c)(2) of the National Contingency Plan, which affords every state the opportunity to select the highest priority facility in that state for inclusion on the NPL.

Regarding the commenter’s concern that placing this facility on the NPL could be “replacing one of the much needed areas within the continental United States,” the portion of the facility is being added to the NPL consistent with the requirement in CERCLA §105(a)(8)(B) that, “to the extent practicable, [the NPL] shall include among the one hundred highest priority facilities one such facility from each State which shall be the facility designated by the State as presenting the greatest danger to public health or welfare or the environment among the known facilities in such State.” Further, CERCLA §101(27) provides a definition of “State” within the context of the act:

The terms ‘United States’ and ‘State’ include the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico . . . and any other territory or position over which the United States has jurisdiction.

Thus, the Commonwealth of Puerto Rico is a “State” for purposes of implementing CERCLA and is entitled to designate a facility for the NPL in accordance with CERCLA §105(a)(8)(B).

1.1.6 Support for Postponement of Culebra Listing Decision

The U.S. Army “supports separation of the listing decision for Culebra from that involving Vieques, as an alternative to the combined listing of both facilities as the Commonwealth’s ‘highest priority facility.’”

The Army “developed a draft Plan of Action for Culebra. Spanning from investigation to reasonable cleanup, this draft plan outlines the steps the Army has taken and plans to take to protect Culebra’s people, its visitors, and its environment.” The Army stated that it “has continued to discuss the path forward and, to that end, worked with the Commonwealth, in consultation and coordination with EPA, to develop Preliminary Points of Agreement that are intended to guide both parties as they work toward developing a Memorandum of Agreement that will implement the Plan of Action.” It stated that this approach would allow Puerto Rico to “retain its status as the regulatory lead for the Army’s Culebra initiatives and . . . retain the opportunity to request inclusion of Culebra on the NPL at a later time.”

The Army summarized activities conducted to date on Culebra, including the assessment of the eligibility of certain Culebra areas for treatment under the FUDS program, completion of an initial Archives Search Report to identify areas for further investigation, and completion of an Engineering Evaluation/Cost Analysis (EE/CA) to identify contaminated areas.

The Army then presented a number of steps in its proposed “path forward” at Culebra. These steps included:

- Conduct a Supplemental Archives Search Report to identify additional FUDS-eligible areas.
- Conduct site inspections and remedial investigations of additional FUDS-eligible areas.
- Conduct remedial investigations of “all Puerto Rico’s Areas of Concern, including certain water areas within a 100 yards seaward of the mean high-tide point.”
- Cleanup of Puerto Rico’s Areas of concern “where statutorily authorized.”
- Assist landowners in meeting public safety responsibilities through creative land use control and community outreach initiatives.

The U.S. Department of the Interior, Fish and Wildlife Service (FWS), also supported the separate treatment of Vieques and Culebra. It indicated that it had two principle objectives. First was that the FWS “must be involved in any response or remedial planning process addressing the cleanup of hazardous substances on Vieques and Culebra. Secondly, any response or remedial action decisions must be consistent with the use of those portions of the lands identified as national wildlife refuge lands.” It continued, “[t]he FWS believes that these objectives can be met through EPA’s second alternative for proposed NPL listing of AFWTA. The FWS supports EPA’s proposal to separately list those portions of Vieques as identified and agreed to by the Commonwealth and the Navy. . . .”

Mr. Acevedo-Vila, Resident Commissioner and Member of Congress, also acknowledged an alternative approach for addressing Culebra. He pointed out that “[t]he Commonwealth of Puerto Rico and the U.S. Army have engaged in discussions regarding a possible alternative clean up for Culebra. Under this scenario, the Superfund listing of Vieques would be finalized and proceed accordingly, while final Superfund listing for Culebra would be deferred. This scenario is consistent with CERCLA.” He cautioned, however, that a “clean up of the AFWTA portions of Culebra, outside of CERCLA, must be

enforceable, comprehensive, and proceed within an established time frame. The Commonwealth will maintain the option of seeking final Superfund listing if agreement on such an alternative cannot be reached.”

The Center for Public Environmental Oversight (CPEO) generally opposed the separation of the Vieques and Culebra portions of the areas collectively identified by the Commonwealth as the AFWTA. It commented, however, that, in the event EPA elects that option, CPEO recommends the following requirements for the Memorandum of Agreement.

- Enforceable milestones agreed upon by both the Army and the EQB.
- EQB must be able to “come in with regulatory enforcement actions” should milestones not be met.³
- An annual funding commitment by the Army adequate to maintain ongoing cleanup work.
- A “robust public involvement program that includes formation of a Restoration Advisory Board as well as Technical Assistance for Public Participation support.”
- Regulator and community participation in the remedial selection process.

CPEO concluded that, should any of these recommendations not be met, that “EPA should immediately act to include Culebra in the AFWTA listing.”

EQB similarly argued for listing the areas collectively identified by the Commonwealth as the AFWTA, but acknowledged, “[i]f, however, the Commonwealth or Puerto Rico Environmental Quality Board (PREQB) and the U.S. Army reach a satisfactory enforceable agreement for the cleanup of Culebra, the Commonwealth would support deferring the final listing only for the Culebra portions of the AFWTA that are addressed in such an agreement.”

EQB pointed out that, “if the Army considers that any or all portions of the waters and/or lands designated by the Commonwealth’s Governor . . . are not eligible or will not be included in the investigation and remediation program to be proposed and put in place by that agency, then we ask that all those designated areas that are not addressed by an enforceable cleanup agreement with the Army be included as part of the AFWTA Superfund Site and listed on the NPL.” EQB further indicated that, if a final agreement could not be reached between the Army and the Commonwealth, “the Commonwealth and PREQB would request that EPA list both the Vieques portions and the Culebra portions of the AFWTA on the NPL.”

EQB cited the “CERCLA’s broad Savings Clause” (§302(d) with respect to applicability of other Federal or State laws with respect to releases of hazardous substances and concluded, “[t]he purpose of this clause is to indicate that CERCLA remedies are not exclusive and in order to effectuate such a clause, there must be alternative valid remedies. Consequently, it is consistent with CERCLA to defer an NPL listing if a more appropriate means for cleanup exists.”

³CPEO cited a similar agreement between the State of Colorado and local citizens at the former Lowry Bombing and Gunnery Range as a “constructive model.”

In response, the Agency has decided to go forward with the listing of a part of the areas collectively identified by the Commonwealth as the AFWTA as described in item II above. The Agency, then, is promulgating today the Vieques portions of the areas collectively identified by the Commonwealth as the AFWTA and postponing a final decision on the Culebra portions of the AFWTA. Due to the pending negotiations between the Commonwealth of Puerto Rico and the Army regarding the completion of a Memorandum of Agreement, the Agency has elected to take no action at this time on the final listing decision for Culebra, including on whether Vieques and Culebra can be treated as one facility. The Memorandum of Agreement will govern the response actions necessary to protect Culebra's human health and environment. The EPA, Puerto Rico and the Army have agreed to pursue this alternate arrangement. The terms or progress under such agreement may determine the point at which it may be appropriate to withdraw the proposal to list the Culebra areas. EPA's intent would be to allow the Culebra areas to be addressed by the two parties under their agreement. On October 28, 2004, the Army and EQB signed a Preliminary Points of Agreement document that contemplated the parties continuing to work together toward the goal of signing a Memorandum of Agreement.

1.1.7 Remediation Issues

In a mass mailing and many individual comments, many commenters supported "the demands of the people of Vieques to decontaminate all the lands and return them to the island's inhabitants as soon as possible so that they can use them for their sustainable economic development." These commenters noted the "long history of human use, including fishing and diving, as well as scientific research and management of ecological areas, that cleanup plans must take into account." They concluded that a "superficial cleanup only, would be less expensive, but it is not sufficient and would not guarantee the safe use of those lands by human beings," and that "the United States Navy, with oversight by the EPA, must promptly clean up the contaminated soil and water to safeguard the health and sustainable development of the people of Vieques."

Ms. Linda Backiel, private citizen, stated that "[t]he men, women and children of Vieques need more living space for homes, schools, farms, light industry and tourism. Sealing off vast areas previously poisoned by the Navy and calling them 'wilderness' is not an appropriate action. The clean up must ensure that all areas are suitable for human habitation and agriculture."

Ms. Abbie Meyer, private citizen, stated that "[i]n the case of this particular firing range, both the EPA and the military need to focus swift attention and resources to clean-up and REMEDIATED this site so that island residents can resume safe use of this land." This commenter also "urge[d] the US EPA to rely upon RCRA standards rather than the nebulous Superfund requirements to determine adequate clean-up levels for all contaminants." This commenter also encouraged EPA "to petition Congress for money to support research on the health implications to current residents of the island and to provide much needed financial assistance and medical care to residents. . . ."

Ms. Sonia Dueno, private citizen, opined that "[t]he U.S. Navy has turned over the lands of Vieques, P.R. to the U.S. Dept. of Interior who in turn gave jurisdiction to the U.S. Fish & Wildlife Service. This is very disturbing because it was done to relieve the U.S. Navy from its responsibility to clean up the contamination of the land and to avoid returning them to the inhabitants of Vieques . . . the Navy must clean up over 6 decades of contamination. . . ."

Mr. Frank S. Gonzales Garcia, President, Puerto Rican Ornithological Society, recommended that a “thorough analysis of surface and groundwater should . . . be performed at all areas that are known or are suspected to be contaminated.” He commented that water quality “is vital for shorebirds since most of these species spend most of their time feeding and resting at ponds, lagoons and wetlands.”

Mary Ann Lucking, Director, CORALations, recommended that, pending remediation, “all the offshore waters proposed for inclusion in this NPL listing should be declared a no-anchor zone.” It also recommended “navigational restrictions with the training and licensing of local businesses so that all future tourism is restricted to move through the locally owned business operators. In this way local operators can be trained and licensed to use the waters and educate and track future visitors.” It concluded “[t]his is not unprecedented and similar management plans have been implemented in Hawaii.”

NPRC observed that “[i]t is important to point out that when considering the extent of clean up required based on land usage, EPA should consider that while current law deprived Vieques’ residents of much of their land, future laws could change that situation for the benefit of Island residents.” It also commented that “even when the U.S. Navy restricted access to the lands on the eastern portions of Vieques, it was unable to prevent protestors from occupying the land. Therefore, it is reasonable to assume that even if the eastern portions was set aside for a wildlife refuge, there would still be people on the land (i.e., boaters, scientists etc.)”

In response, these comments relate to issues of liability and the nature of and funding for future response work and are not relevant to the basis for listing a site on the NPL. Issues dealing with future responses actions are considered in a different stage of the Superfund process. EPA has a consistent process for investigating and making remediation decisions for sites on the NPL. EPA generally prepares a risk assessment and remedial investigation/feasibility study (RI/FS) to more accurately assess the degree of threat posed by sites and to develop a range of response action options. From these options, a remediation plan is decided upon and published in a Record of Decision (ROD). As discussed in more detail below, this process offers opportunities for public involvement.

1.1.8 Public Participation

In a mass mailing, several commenters encouraged the Agency to “comply with Title VI of the Civil Rights Act Prohibition on National Origin Discrimination and Executive Order 13166 of August 11, 2000 and provide meaningful access to services to a limited English proficient population impacted by . . . agency action. A minimum compliance would be to provide an Executive Summary of all documents in Spanish.”

Ms. Linda Backiel, private citizen, asserted that, “[o]f particular concern is the ability for genuine community participation in the clean-up and future land-use plans. To date, the Agency’s outreach and information about plans for Vieques have been inadequate. All information needs to be made available in the Spanish language, at various sites in Vieques, and on the agency’s website.” She added that “[a]n engineer who does environmental consulting informs me that the information available about Vieques is far less than what is normally available on-line.”

EQB commented that, “[i]n the consultative and deliberative process regarding cleanup, decontamination, and land use, the participation of community leaders and organizations is essential.”

Mr. Acevedo-Vila commented that, “as this listing proceeds and investigations and remediation commence, I urge the EPA to consult with and be inclusive of the local communities. . . EPA should provide local forums for discussion of CERCLA processes and goals, and to the extent possible, local residents should be involved in all steps of the planning, scoping investigation and cleanup of the AFWTA.”

The Center for Public Environmental Oversight also called for a “robust public involvement program that includes formation of a Restoration Advisory Board as well as Technical Assistance for Public Participation support to provide independent technical assistance to the community.” It also commented that inclusion on the NPL “will provide citizens the assurance that continued funding for technical assistance will be made available through an EPA Technical Assistance Grant. Site listing will also ensure that the community has in [sic] say in remedy selection, a critical component any of [sic] munitions cleanup.”

Mr. Frank S. Gonzales Garcia urged EPA “to include in its Community Involvement Plan support for bird count studies in order to gather information about bird species and their important areas. We also recommend that the EPA include the goal of educating local people regarding the flora and fauna of Vieques. . . .”

In response, regarding the appropriate input and education of the public during the Superfund process, the public will play a major role in selection and oversight of future activities, as required by the NCP. The Superfund program offers numerous opportunities for public participation at NPL sites. The EPA Regional Office develops a Community Relations Plan (CRP) before remedial investigation and feasibility study (RI/FS) field work begins. The CRP is the “work plan” for community relations activities that EPA will conduct during the entire cleanup process. In developing a CRP, Regional staff interview State and local officials and interested citizens to learn about citizen concerns, site conditions, and local history. This information is used to formulate a schedule of activities designed to keep citizens informed and to keep EPA aware of community concerns. Typical community relations activities include:

- Public meetings at which EPA presents a summary of technical information regarding the site and citizens can ask questions or comment.
- Small, informal public sessions at which EPA representatives are available to citizens.
- Development and distribution of fact sheets to keep citizens up-to-date on site activities.

For each site, an "information repository" is established at one or more locations, usually in a library or town hall, containing reports, studies, fact sheets, and other documents containing information about the site. The EPA Regional Office continually updates the repository and must ensure that the facility housing the repository has copying capabilities. For the areas collectively identified by the Commonwealth as the AFWTA facility, these repositories are located at:

Vieques
U.S. Environmental Protection Agency
Caribbean Environmental Protection Division
Vieques Field Office
Vieques Office Park
Carr. 200 Km 0.4
Vieques, Puerto Rico 00765
Contact: Daniel Rodriguez (787) 741-5201

Culebra
Casa Alcaldia
Calle Pedro Marquez #250
Culebra, Puerto Rico
Contact: Daniel Rodriguez (787) 741-5201

San Juan
U.S. Environmental Protection Agency
Caribbean Environmental Protection Division
Centro Europa Building, Suite #417
1492 Ponce de Leon Avenue
San Juan, Puerto Rico
Contact: Brenda Reyes (787) 977-5869

After the RI/FS(s) and site specific risk assessment(s) are completed, EPA publishes a Proposed Plan outlining the cleanup alternatives studied and explaining the process for selection of the preferred alternative. At this time, EPA opens a public comment period during which citizens are encouraged to submit comments regarding all alternatives. EPA will consider and respond to all comments prior to finalizing the selected remedy in a Record of Decision (ROD). After remedy selection, the public has the opportunity to provide input on Five-Year Reviews of the remedy if waste is left on site, as well as the decision to ultimately delete the site from the NPL after cleanup work is complete.

EPA recognizes the need to have public information materials related to the cleanup activities in Vieques made available in Spanish language. Consistent with its translation policy, EPA has, and will continue to, produce and translate documents intended for the general public that provide information and summarize our activities in Vieques. These documents include public notices, fact sheets, and posters. Due to the difficulty in accurately and consistently translating technical or legal documents into other languages, the Agency only translates materials intended for a general audience. The Agency will, however, make every effort to assist community members in understanding complex or technical legal documents. In addition, the Agency will ensure that the community is kept informed and has an opportunity to be meaningfully involved in the cleanup process by continuing to generate documents that have the public at large as an audience. EPA has also made available a grant to assist a community/non-profit group with technical assistance – including translation assistance – to help foster a better understanding of very technical, complex issues.

Additionally, material used in four public information sessions regarding the NPL proposal held in San Juan, Vieques, and Culebra were available in English and Spanish. These sessions were held during the 60 day comment period for the NPL proposal, and detailed information on how to submit comments was provided.

1.1.9 Conclusion

The Atlantic Fleet Weapons Training Area (AFWTA) was nominated to the NPL pursuant to CERCLA 105(a)(8)(B) and the NCP (300.425(c)(2)). As suggested in the Federal Register at proposal (69 FR 50115, August 13, 2004), however, the Agency has elected to add the Atlantic Fleet Weapons Training Area - Vieques to the NPL today and, due to the pending negotiations between the Commonwealth of Puerto Rico and the Army, EPA has elected to take no action at this time on the final listing decision for Culebra, including on whether Vieques and Culebra can be treated as one facility. The Commonwealth of Puerto Rico and the Department of Defense may enter into a Memorandum of Agreement that would govern the continuing environmental response actions at the Culebra portions of the areas collectively identified by the Commonwealth as the AFWTA. On October 28, 2004, the Army and EQB signed a Preliminary Points of Agreement document, which states that the parties are continuing to work toward such an agreement. The addition of the Vieques portions of the areas collectively identified by the Commonwealth as the AFWTA at this time allows for those negotiations to continue for Culebra, while at the same time not delaying any actions with respect to the Vieques portions.